

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Part 90 of the Commission’s Rules to Improve Access to Private Land Mobile Radio Spectrum	)	WP Docket No. 16-261
	)	
Land Mobile Communications Council Petition for Rulemaking Regarding Interim Eligibility for 800 MHz Expansion Band and Guard Band Frequencies	)	RM-11719
	)	
Petition for Rulemaking Regarding Conditional Licensing Authority Above 470 MHz	)	RM-11722
	)	

**COMMENTS OF MOTOROLA SOLUTIONS, INC.**

Motorola Solutions, Inc. (“Motorola”) respectfully submits its comments in response to the above-captioned Notice of Proposed Rulemaking (“*NPRM*”) seeking to amend Part 90 of the Federal Communications Commission’s (“Commission’s”) rules to expand access to private land mobile radio (“PLMR”) spectrum.<sup>1</sup> Motorola agrees that amending the Part 90 rules would achieve several important public interest benefits. In particular, Motorola supports expanding conditional licensing authority above 470 MHz as it will provide greater flexibility for applicants to deploy in new spectrum quickly. In addition, recent advancements in technology permitting 4 KHz operation may allow for more efficient and intensive use of the frequencies separating PLMR and General Mobile Radio Service (“GMRS”) spectrum.<sup>2</sup> In opening up any new

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<sup>1</sup> *Amendment of Part 90 of the Commission’s Rules to Improve Access to Private Land Mobile Radio Spectrum*, Notice of Proposed Rulemaking, 31 FCC Rcd 9431 (2016) (“*NPRM*”).

<sup>2</sup> *NPRM* at ¶ 5.

frequencies, however, the Commission should be mindful of incumbent uses and ensure appropriate interference protection.

## **I. CONDITIONAL LICENSING AUTHORITY ABOVE 470 MHZ IS LONG OVERDUE**

The time is ripe to extend the benefits of conditional licensing authority to frequency bands above 470 MHz. Expanding conditional licensing authority will further the Commission's goal of placing spectrum into operation quickly and, in so doing, create regulatory parity among Part 90 applicants. Indeed, there is no longer any justification for distinguishing similarly situated Part 90 applications by frequency band. The proposed rule change will ensure that the deployment of new or modified communications networks is not impeded by unnecessary bureaucratic delays, regardless of the frequencies used.

Over the years, conditional licensing authority has proven to be an effective program for users with very few complications or conflicts arising from allowing early construction. Section 90.159 of the Commission's rules allows applicants in the PLMR frequency bands below 470 MHz to begin constructing and operating facilities upon properly filing a completed application that includes evidence of coordination by a Commission-certified frequency advisory committee.<sup>3</sup> However, the Commission deferred extending conditional authority to frequency bands above 470 MHz as a cautionary measure to avoid disrupting bands where exclusive-use channels were available.<sup>4</sup> When the Commission enacted Section 90.159, it recognized that it

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<sup>3</sup> 47 C.F.R. § 90.159.

<sup>4</sup> *Amendment of Part 90 of the Commission's Rules to Implement a Conditional Authorization Procedure for Proposed Private Land Mobile Radio Service Stations*, Report and Order, 4 FCC Rcd 8280, ¶ 25 (1989).

was being conservative in the implementation of conditional authority and that it could consider expanding the concept in the future.<sup>5</sup>

The Commission's rationale for limiting conditional licensing authority to applicants below 470 MHz no longer is applicable. Since adopting Section 90.159, the Commission has modified or rescinded many of the policies that differentiated the bands above and below 470 MHz, including establishing the concept of earned exclusivity on 150 MHz and 450 MHz channels. Today, the rules governing frequency assignments below 470 MHz are in fact more technically challenging than the separation criteria in the higher frequency bands.<sup>6</sup> There is no justification, therefore, for distinguishing similarly situated applications by frequency band, provided that they comply with the Section 90.159 requirements.

Further, there is little risk to the proposed rule change. Conditional licensing authority works effectively below 470 MHz because it is available only for applications accompanied by evidence of frequency coordination. The same would remain true in frequency bands above 470 MHz. In addition, Commission experience already confirms that conditional licensing authority can be expanded to frequency bands above 470 MHz safely. In 2013, the Mobility Division of the Wireless Telecommunications Bureau granted a temporary waiver of Section 90.159 to permit applicants for new or modified Industrial/Business Pool stations in frequency bands above 470 MHz to operate while their applications were pending.<sup>7</sup> While the waiver was effective, the

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<sup>5</sup> *Id.*

<sup>6</sup> For example, modifications to Section 90.187 include a process where some applicants for frequencies below 512 MHz may be exempted from the monitoring requirement applicable to shared frequencies, based on co-channel and adjacent channel contour analysis. 47 C.F.R. § 90.187. This is more technically complex than the separation criteria for higher frequency applicants. *See* 47 C.F.R. § 90.621.

<sup>7</sup> *Enterprise Wireless Alliance*, Order, 28 FCC Rcd 13910 (WTB MD 2013).

Commission did not experience a notable increase in the number of challenges filed against applications or other harm. Rather, the waiver permitted applicants to quickly deploy facilities in the public interest despite the average application processing time exceeding six months.

Given the success of the conditional licensing program, and the absence of any justification for continuing to treat applicants above 470 MHz differently, the Commission should expand conditional licensing authority to the higher frequency bands available under Part 90 of the Commission's rules.

## **II. IN OPENING NEW SPECTRUM FOR PART 90 USE, THE COMMISSION MUST ENSURE APPROPRIATE INTERFERENCE PROTECTION FOR GMRS INCUMBENTS**

The *NPRM* proposes to add frequency pairs 462/467.5375 MHz and 462/467.7375 MHz to the Industrial/Business Pool frequency table.<sup>8</sup> Motorola agrees that spectrum is too critical a resource not to be used in increasingly creative and intensive ways as technology evolves. However, before the Commission frees up additional spectrum, it must ensure that all interests are properly balanced, including those of incumbents operating in adjacent or nearby spectrum.

Currently, the Commission's rules do not designate frequencies at or near the band edges between Part 90 spectrum and Part 95 GMRS spectrum for use by either service, because they previously could not be utilized without overlapping spectrum designated for the other service.<sup>9</sup> However, a number of vendors have developed digital products that allow for very-narrowband 4 KHz operation.<sup>10</sup> With the advent of this capability, some frequencies near the band edges now can be used without overlapping spectrum designated for other services.

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<sup>8</sup> *NPRM* at ¶ 10.

<sup>9</sup> *See* 47 C.F.R. § 2.106.

<sup>10</sup> *NPRM* at ¶ 5.

Nevertheless, some of the frequencies included in the *NPRM's* proposal could create scenarios where new 4 KHz operations overlap with incumbent 25 KHz operations, resulting in harmful interference. As the *NPRM* recognizes, frequency pair 462/467.750 MHz is exempt from narrowbanding and still may be assigned with a channel bandwidth of 25 KHz, which would be overlapped by 4 KHz operation on frequency pair 462/467.7375 MHz.<sup>11</sup> Moreover, the Commission has not migrated GMRS to narrowband technology, and the timetable for doing so is unclear. Therefore, while Motorola supports the *NPRM's* proposal, the Commission should ensure that GMRS incumbents are appropriately protected from harmful interference caused by the proposed new 4 KHz operations.

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<sup>11</sup> *Id.* at ¶ 10.

### **III. CONCLUSION**

For the foregoing reasons, the Commission should amend the Part 90 rules to extend conditional licensing authority to frequency bands above 470 MHz. Such authority will ensure regulatory parity in the PLMR licensing process, minimize regulatory burdens and delays, and enable spectrum to be deployed more quickly. In addition, before authorizing new 4 KHz operations over frequencies between PLMR and GMRS spectrum, the Commission should ensure that incumbent GMRS users are appropriately protected from harmful interference.

Respectfully submitted,

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